MONTANA LEGISLATIVE HISTORY

Chapter 14 19 83

Bill H 81 S _____ Original bill & history ✓ C

H. Committee on	Taxation		S. Committee on	Taxation	
Hearing Date(s)	Jan 10	✓ C	Hearing Date(s)	Jan 25	✓ C
	Jan 11	✓ C			C
		C			C
		C			C
Date Out	Jan 11	✓ C		Jan 25	✓ C

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____ Report _____

HOUSE BILL NO. 81

Introduced: 01/05/83

Referred to Committee on Taxation: 01/05/83
Hearing: 1/10/83
Report: 01/11/83, Do Pass, As Amended

2nd Reading: 01/13/83, Do Pass, As Amended
3rd Reading: 01/15/83, Do Pass

Transmitted to Senate: 1/15/83

Referred to Committee on Taxation: 01/17/83
Hearing: 1/25/83
Report: 01/26/83, Be Concurred In

2nd Reading: 01/28/83
3rd Reading: 01/31/83

Returned to House: 1/31/83

Transmitted to Governor: 2/3/83
Signed: 2/4/83, Chapter 14

INTRODUCED BY House Bill 81

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE ASSESSMENT OF INTEREST ON DEFICIENCY ASSESSMENTS FOR THE COAL SEVERANCE TAX, OIL AND GAS SEVERANCE TAX, MINING LICENSE TAXES, RESOURCE INDEMNITY TRUST TAX, ELECTRIC ENERGY PRODUCERS' LICENSE TAX, TELEPHONE COMPANY LICENSE TAX, COAL RETAILER'S LICENSE TAX, AND CEMENT TAXES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Deficiency assessment -- hearing -- interest. (1) When the department of revenue determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice of the additional tax proposed to be assessed. Within 30 days after mailing of the notice, the taxpayer may file with the department a written protest against the proposed additional tax, setting forth the grounds upon which the protest is based, and may request in his protest an oral hearing or an opportunity to present additional evidence relating to his tax liability. If no protest is filed, the amount of the additional tax proposed to be assessed becomes final upon the expiration of the 30-day period. If a protest is filed, the department must reconsider the proposed assessment and, if the taxpayer has so requested, must grant the taxpayer an oral hearing. After consideration of the protest and the evidence presented at any oral hearing, the department's action upon the protest is final when it mails notice of its action to the taxpayer.

(2) When a deficiency is determined and the tax becomes final, the department shall mail a notice and demand for payment to the taxpayer. The tax is due and payable at the expiration of 10 days from the date of such notice and demand. Interest on any deficiency assessment shall bear interest until paid at the rate of 1% a month or fraction thereof, computed from the original due date of the return.

Section 2. Codification instruction. Section 1 is intended to be codified as an integral part of Title 15, chapters 35, 36, 37 (parts 1 and 2), 38, 51, 53, 58, and 59 (parts 1 and 2), and the provisions of Title 15, chapters 35, 36, 37 (parts 1 and 2), 38, 51, 53, 58, and 59 (parts 1 and 2), apply to section 1.

-End-

INTRODUCED BILL

HB-81

INTRODUCED: 01/04/83
REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 01/04/83
HEARING: 1/13/83
DIED IN COMMITTEE

-- HARPER, FULLER, LORY, ET AL. -- AMENDING SECTION ..., TO ADD A RETIRED PUBLIC EMPLOYEE TO THE PUBLIC EMPLOYEES' RETIREMENT BOARD; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

INTRODUCED: 01/04/83
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 01/04/83
HEARING: 1/21/83
REPORT: 01/22/83, DO PASS
2ND READING: 01/25/83, DO PASS AYES: 94; NAYS: 5
3RD READING: 01/27/83, DO PASS AYES: 92; NAYS: 2

TRANSMITTED TO SENATE: 1/27/83
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 01/28/83
HEARING: 3/3/83
REPORT: 03/03/83, BE CONCURRED IN
2ND READING: 03/05/83 AYES: 49; NAYS: 0
3RD READING: 03/08/83 AYES: 48; NAYS: 0

RETURNED TO HOUSE: 3/8/83

TRANSMITTED TO GOVERNOR: 03/15/83
SIGNED: 03/17/83, CHAPTER 117

79 -- NORDTVEDT, SALES -- CHANGING SALARIES OF ELECTED STATE OFFICIALS EACH BIENNIUM BY AN AMOUNT EQUAL TO THE GROWTH PERCENTAGE; AMENDING SECTIONS ...; AND PROVIDING AN EFFECTIVE DATE.

INTRODUCED: 01/05/83
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 01/05/83
HEARING: 1/11/83
REPORT: 02/02/83, DO NOT PASS, AS AMENDED
BILL KILLED: 02/03/83

80 -- NORDTVEDT -- TO PROVIDE FOR THE SERVICE OF ALCOHOLIC BEVERAGES ON COMMON CARRIERS IN MONTANA; DEFINING "COMMON CARRIERS"; AMENDING SECTION ....
BY REQUEST OF: THE REVENUE OVERSIGHT COMMITTEE

INTRODUCED: 01/05/83
REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY: 01/05/83
HEARING: 1/17/83
REPORT: 01/17/83, DO NOT PASS, AS AMENDED
BILL KILLED: 01/18/83

81 -- NORDTVEDT -- TO PROVIDE FOR THE ASSESSMENT OF INTEREST ON DEFICIENCY ASSESSMENTS FOR THE COAL SEVERANCE TAX, OIL AND GAS SEVERANCE TAX, MINING LICENSE TAXES, RESOURCE INDEMNITY TRUST TAX, ELECTRIC ENERGY PRODUCERS' LICENSE TAX, TELEPHONE COMPANY LICENSE TAX, COAL RETAILER'S LICENSE TAX, AND CEMENT TAXES."
BY REQUEST OF: THE REVENUE OVERSIGHT COMMITTEE

INTRODUCED: 01/05/83
REFERRED TO COMMITTEE ON TAXATION: 01/05/83
HEARING: 1/10/83

REPORT: 01/11/83, DO PASS, AS AMENDED
2ND READING: 01/13/83, DO PASS, AS AMENDED AYES: 95; NAYS: 0
3RD READING: 01/15/83, DO PASS AYES: 90; NAYS: 0

TRANSMITTED TO SENATE: 1/15/83
REFERRED TO COMMITTEE ON TAXATION: 01/17/83
HEARING: 1/25/83
REPORT: 01/26/83, BE CONCURRED IN
2ND READING: 01/28/83 AYES: 46; NAYS: 0
3RD READING: 01/31/83 AYES: 49; NAYS: 0

RETURNED TO HOUSE: 1/31/83

TRANSMITTED TO GOVERNOR: 2/3/83
SIGNED: 2/4/83, CHAPTER 14

HB 82 -- MANUEL, ELLERD -- TO REESTABLISH THE BOARD OF MILK CONTROL UNDER EXISTIN STATUTORY AUTHORITY AND RULES; REQUIRING A HEARING BEFORE LICENSE SUSPENSION O REVOCATION; CREATING A STATEWIDE MARKET AREA; DELETING RATE OF RETURN FROM THE PRICIN FORMULA; REPEALING BONDING REQUIREMENTS; AMENDING SECTIONS ...; REPEALING SECTION ...; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.
BY REQUEST OF: THE LEGISLATIVE AUDIT COMMITTEE

INTRODUCED: 01/05/83
REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY: 01/05/83
HEARING: 1/12/83
REPORT: 01/12/83, DO PASS
2ND READING: 01/15/83, DO PASS AYES: 79; NAYS: 12
3RD READING: 01/18/83, DO PASS AYES: 91; NAYS: 5

TRANSMITTED TO SENATE: 1/18/83
REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK, & IRRIGATION: 01/19/83
HEARING: 1/24/83
REPORT: 01/24/83, BE CONCURRED IN, AS AMENDED
REREFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK, & IRRIGATION: 01/26/83
REPORT: 01/29/83, BE CONCURRED IN, AS AMENDED
2ND READING: 02/01/83 AYES: 45; NAYS: 3
3RD READING: 02/03/83 AYES: 45; NAYS: 5

RETURNED TO HOUSE: 02/03/83

TRANSMITTED TO GOVERNOR: 2/9/83
SIGNED: 2/14/83, CHAPTER 23

HB 83 -- HEMSTAD, DRISCOLL, DOZIER, ET AL. -- TO AMEND SECTION ... TO REQUIRE THAT ELECTION POLLS OPEN AT 7 A.M.
BY REQUEST OF: THE SECRETARY OF STATE

INTRODUCED: 01/05/83
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 01/05/83
HEARING: 1/11/83
REPORT: 01/11/83, DO PASS
2ND READING: 01/14/83, DO PASS AYES: 86; NAYS: 5
3RD READING: 01/17/83, DO PASS AYES: 93; NAYS: 6

TRANSMITTED TO SENATE: 1/17/83
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 01/18/83

MINUTES OF THE MEETING OF THE HOUSE TAXATION COMMITTEE
January 10, 1983

The meeting was called to order at 9:00 a.m. by Chairman Yardley. Roll call was taken and all committee members were present except Representative Harrington, who was excused.

Testimony was heard on House Bills 81 and 91 during this meeting.

HOUSE BILL 91

REPRESENTATIVE MUELLER, sponsor of HB 91, said the bill amends existing law to fit what is actually being done. He said agriculture land is being classified by 640 acre sections, or portions of a section owned. If the present law is followed and, for example, a landowner owns 640 acres, a classification sheet is required for each 40 acres in that section. If HB 91 is passed there would only be one classification sheet required for each section.

Proponents

ELLEN FEAVER, Director of the Department of Revenue, said HB 91 will make the reappraisal of timber land less costly than the statutes now provide.

There were no opponents to testify on HB 91.

REPRESENTATIVE JACOBSEN asked if HB 91 covers all lands or just timber lands. Greg Groepper, Department of Revenue, said HB 91 covers all lands. He said the Department of Revenue would have the option to record land in larger parcels than is now required.

REPRESENTATIVE REAM asked if a landowner had several legal descriptions per section of land owned, would there be an assessment done on each legal description. Les Saisburg, Department of Revenue, said the Department of Revenue would try to consolidate legal descriptions per section.

The hearing on HB 91 was closed.

HOUSE BILL 81

REPRESENTATIVE NORDTVEDT, sponsor of the bill, said HB 81 was introduced by request of the Revenue Oversight Committee. He said when most taxes are paid late there is an interest rate

added to the overdue tax bill. That is part of an incentive system to pay your taxes on time. There is a "quirk" in the law concerning mineral taxes. The payer calculates what he owes and then pays his taxes. The Department of Revenue will then audit the production records to see if the payer paid the correct amount of taxes. If the payer did not pay the sufficient amount of taxes, there is no law to allow interest to be charged on the taxes still owing. House Bill 91 would allow interest to be charged at 1% per month on taxes still owing.

There were no proponents or opponents to testify on HB 81.

REPRESENTATIVE DEVLIN asked if the 2% penalty charge would be applied against delinquent taxes. Representative Nordtvedt said the penalty charge would not apply. If the original taxes were paid on time and then an audit is performed which resulted in the finding of more tax being owed, there would be no penalty.

REPRESENTATIVE NILSON asked if there was an estimate on how much revenue is being lost due to this problem. Ms. Feaver said HB 81 is not a proposal to generate more revenue. She said the Department of Revenue is finding that there are significant amounts of taxes due and the interest penalty is an incentive to make sure the proper amount of taxes is being paid.

REPRESENTATIVE NORDTVEDT asked if an audit was performed and it was discovered there was an overpayment of taxes, would interest be paid to the payer on the amount of overpayment. Ms. Feaver said she did not know.

The hearing on HB 81 was closed.

CHAIRMAN YARDLEY called the committee into Executive Session.

EXECUTIVE SESSION

House Bill 81

REPRESENTATIVE WILLIAMS moved HB 81 DO PASS.

REPRESENTATIVE BERTELSEN asked Representative Nordtvedt, sponsor of HB 81, to consider an amendment to pay interest in the cases of overpayment on taxes. Representative Nordtvedt suggested the interest be paid at the rate of 1% per month on any overpayment.

CHAIRMAN YARDLEY asked Jim Oppedahl, staff researcher, to write the proper amendment.

REPRESENTATIVE NORDTVEDT moved an amendment be added to HB 81 to pay interest on overpayment of taxes.

The motion was voted on and PASSED unanimously.

CHAIRMAN YARDLEY said he would hold executive action on HB 81 until tomorrow's meeting.

House Bill 91

REPRESENTATIVE JACOBSEN made a motion to delay action on HB 91 until some questions have been answered. Chairman Yardley said a motion was not needed and he would give Representative Jacobsen 24 hours to have his questions answered and this committee will pass action on HB 91 for the day.

The meeting was adjourned at 9:35 a.m.

DAN YARDLEY, Chairman

Vicki Lofthouse, Secretary

VISITORS' REGISTER

HOUSE Taxation COMMITTEE

BILL HB 81 Date January 10, 1983

SPONSOR

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOSE
[illegible]	Helena	MTC		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

The motion was voted on and PASSED unanimously.

House Bill 81

REPRESENTATIVE NORDTVEDT moved HB 81 BE AMENDED as follows:

1. Title, line 6.
   Following: "ASSESSMENTS"
   Insert: "AND OVERPAYMENTS"

2. Page 2.
   Following: line 13
   Insert: "Section 2. Credit for overpayment - interest on overpayment. (1) If the department of revenue determines that the amount of tax, penalty, or interest due for any year is less than the amount paid, the amount of the overpayment shall be credited against any tax, penalty, or interest then due from the taxpayer and the balance refunded to the taxpayer or its successor through reorganization, merger, or consolidation or to its shareholders upon dissolution.
   (2) Except as hereinafter provided for, interest shall be allowed on overpayments at the same rate as is charged on deficiency assessments provided in [section 1] due from the due date of the return or from the date of overpayment (whichever date is later) to the date the department approves refunding or crediting of the overpayment. Interest shall not accrue during any more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment. No interest shall be allowed:
   (a) if the overpayment is refunded within 6 months from the date the return is due or from the date the return is filed, whichever is later; or
   (b) if the amount of interest is less than $1.
   (3) A payment not made incident to a bona fide and orderly discharge of an actual tax liability or one reasonably assumed to be imposed by this law shall not be considered an overpayment with respect to which interest is allowable."
   Renumber: subsequent section

3. Page 2, line 14.
   Following: "instruction."
   Strike: "Section 1 is"
   Insert: "Sections 1 and 2 are"

4. Page 2, line 15.
   Following: "as"
   Strike: "an"
   Following: "integral"
   Strike: "part"
   Insert: "parts"

5. Page 2, line 19.
   Following: "to"
   Strike: "section 1"
   Insert: "sections 1 and 2"

The motion was voted on and PASSED unanimously.

REPRESENTATIVE NORDTVEDT moved HB 81 DO PASS AS AMENDED.

The motion was voted on and PASSED unanimously.

House Bill 50

The committee discussed HB 50. Representative Jacobsen suggested the following changes be made on page 3, line 25, of HB 50:

Middle Book Value	Proportional Amount of Fee
$ 9,000 - $13,000	$120
$13,000 - $17,000	$140
$17,000 and over	$160

REPRESENTATIVE KEENAN suggested taking the 1% increase of the middle book value all the way up on the value of the vehicles instead of stopping at $9,000.

REPRESENTATIVE ASAY was present at the meeting at this time.

REPRESENTATIVE NORDTVEDT suggested have a fee category of $2,000 increments with the fee at 1% of the midpoints.

REPRESENTATIVE WILLIAMS said if the fee categories were set up as suggested by Representative Keenan, the system would be more equalized.

REPRESENTATIVE DEVLIN reminded the committee that one of the major reasons for introducing HB 50 was to receive a deduction on the federal income tax forms. Representative Nordtvedt said if Montanans do not receive that deduction, he is not interested in pursuing HB 50 because that is the whole purpose of the bill.

REPRESENTATIVE BERTELSEN suggested checking with the Department of Justice to make sure the offered suggestions would work from an administrative standpoint.

STANDING COMMITTEE

January 11, 19 83

MR. SPEAKER:

We, your committee on TAXATION

having had under consideration HOUSE Bill No. 81

First reading copy (White / Color)

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE ASSESSMENT OF INTEREST ON DEFICIENCY ASSESSMENTS FOR THE COAL SEVERANCE TAX, OIL AND GAS SEVERANCE TAX, MINING LICENSE TAXES, RESOURCE INDEMNITY TRUST TAX, ELECTRIC ENERGY PRODUCERS' LICENSE TAX, TELEPHONE COMPANY LICENSE TAX, COAL RETAILER'S LICENSE TAX, AND CEMENT TAXES."

Respectfully report as follows: That HOUSE Bill No. 81 be amended as follows:

1. Title, line 6.
   Following: "ASSESSMENTS"
   Insert: "AND OVERPAYMENTS"

2. Page 2.
   Following: line 13
   Insert: "Section 2. Credit for overpayment - interest on overpayment. (1) If the department of revenue determines that the amount of tax, penalty, or interest due for any year is less than the amount paid, the amount of the overpayment shall be credited

~~AS AMENDED~~

~~DO PASS~~

DAN YARDLEY, Chairman.

STATE PUB. CO.
Helena, Mont.

Senator Crippen moved that the taxation committee draft and introduce a committee bill dealing with this. The motion was seconded. Senator Goodover stated that at least 3/4 of the committee must consent to the introduction of a committee bill (in this case, 12 members) (Joint Rule 6-9). Upon a vote taken, the motion failed, with Senators Lynch and Norman voting no. (Twelve members were present at the time the vote was taken and two voted no.)

More discussion on the subject followed, and Senator Norman then told Senator Crippen that he had no objection to having a bill drawn, drafted and introduced. A motion was made to have the Legislative Council draft a bill for consideration by this committee. The motion was seconded and passed unanimously. Cort Harrington and Senator Gage will work on getting the bill drafted.

CONSIDERATION OF HOUSE BILL 81: Representative Nordtvedt, House District 77, the sponsor of the bill, said that if individuals and corporations don't pay taxes on time, they must pay interest, but there is no interest penalty for non-payment of resource taxes. This bill provides that interest on deficiency assessments of tax and interest on overpayments is to be calculated and timely paid.

PROPONENTS

There were no proponents other than the sponsor.

OPPONENTS

There were no opponents to HB 81.

Questions were called for from the committee.

Dan Bucks from the Department of Revenue was present to answer questions. He stated that this bill would provide an incentive for reporting taxes properly and timely.

Senator Turnage moved that HB 81 BE CONCURRED IN. The motion was seconded and unanimously passed.

CONSIDERATION OF SENATE BILL 72 (CONTINUED): Cort Harrington stated that the original bill provided that taxes would be paid on a quarterly basis, but the committee is amending it to file the statements quarterly and pay the tax annually. The statements of gross yield are due to the Department of Revenue 60 days following the ends of the calendar quarters (p. 3, l. 14-15, grey bill); taxes imposed are to be paid on or before March 31, or approximately 90 days following the end of the calendar year (p. 4, l. 10-12, 21-25, grey bill). Cort Suggested that the committee might want to make an amendment so the tax can be paid at the same time the statement (for the last quarter) is filed. Proposed SB 72 amendments and grey bill are attached as Exhibits B and C.

ROLL CALL

SENATE TAXATION COMMITTEE

48th LEGISLATIVE SESSION -- 1983 Date 1/25

NAME	PRESENT	ABSENT	EXCUSED
SENATOR GOODOVER, CHAIRMAN	✓		
SENATOR McCALLUM, VICE CHAIRMAN	✓		
SENATOR BROWN	✓ 9am		
SENATOR CRIPPEN	✓		
SENATOR ELLIOTT	✓ late		
SENATOR GAGE	✓		
SENATOR TURNAGE	✓		
SENATOR SEVERSON	✓		
SENATOR HAGER	✓		
SENATOR ECK	✓		
SENATOR HALLIGAN	✓		
SENATOR LYNCH	✓ late		
SENATOR NORMAN	✓		
SENATOR TOWE	✓ 9:30		
SENATOR MAZUREK	✓		

January 25 19 83

MR. PRESIDENT

We, your committee on taxation

having had under consideration House Bill No. 81

Nordtvedt (Towe)

Respectfully report as follows: That House Bill No. 81

BE CONCURRED IN
~~NOTARY~~

Pat M. Goodover. Chairman.

STATE PUB. CO.
Helena, Mont.